



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

**Requestor Name**

ROC ASC LLP

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

February 24, 2014

**Respondent Name**

TEXAS MUTUAL INSURANCE COMPANY

**MFDR Tracking Number**

M4-14-1877-01

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "...medical bill was denied despite the fact that verification of benefits and/or preauthorization of care was requested and obtained from the carrier's utilization review department. We extended treatment in good faith based on the expectation of payment as quoted and pre authorized by the carrier."

**Amount in Dispute:** \$2,835.02

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Texas Mutual claim [claim number] is in the Texas Star Network. (Attachment) Texas Mutual reviewed its online Texas Star Network provider directory for the requestor's name and for its tax identification number, and found no evidence ROC ASC LLP is a participant in that Network. Further, although the requestor did receive Network preauthorization for the disputed services Texas Mutual has no evidence the requestor, a non-network provider, received out of network approval to provide the preauthorized treatment. Nor has the requestor provided any such evidence in its DWC-60 packet... Because this fee reimbursement dispute involves a Network requirement under the Insurance Code and not the Labor Code, Texas Mutual argues DWC MDR has no jurisdiction in this matter."

**Response Submitted by:** Texas Mutual Insurance Company

### **DISPUTED SERVICES SUMMARY**

Dates of Service	Disputed Services	Amount In Dispute	Amount Ordered
October 14, 2013	Ambulatory Surgical Center services	\$2,835.02	\$0.00

### **BACKGROUND**

1. 28 Texas Administrative Code §133.307, 37 TexReg 3833, applicable to medical fee disputes filed on or after June 1, 2012, sets out the procedures for resolving medical fee disputes.
2. Texas Insurance Code Chapter 1305 applicable to Health Care Certified Networks.

### **FINDINGS AND DECISION**

**Issue**

1. Did the requestor meet the conditions outlined in the applicable portions of the Texas Insurance Code (TIC), Chapter 1305 to file for medical fee dispute resolution?
2. Is this dispute eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307?

## **Findings**

ROC ASC LLP filed this medical fee dispute to the Division asking for resolution pursuant to 28 Texas Administrative Code (TAC) §133.307 titled *MDR of Fee Disputes*. The authority of the Division of Workers' Compensation to apply Texas Labor Code statutes and rules, including 28 TAC §133.307, is limited to the conditions outlined in the applicable portions of the Texas Insurance Code (TIC), Chapter 1305. In particular, TIC §1305.153 (c) provides that "Out-of-network providers who provide care as described by Section 1305.006 shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the commissioner of workers' compensation." ROC ASC LLP therefore has the burden to prove that the condition(s) outlined in Texas Insurance Code §1305.006 were met in order to be eligible for dispute resolution of the facility services provided. The following are the Division's findings.

1. Texas Insurance Code Section 1305.006 requires, in pertinent part, that "(3) health care provided by an out-of-network provider pursuant to a referral from the injured employee's treating doctor that has been approved by the network pursuant to Section 1305.103."

Texas Insurance Code Section 1305.103 requires, in pertinent part, that "(e) A treating doctor shall provide health care to the employee for the employee's compensable injury and shall make referrals to other network providers, or request referrals to out-of-network providers if medically necessary services are not available within the network. Referrals to out-of-network providers must be approved by the network..."

The requestor, ROC ASC LLP, has the burden to prove that it obtained the appropriate approval from Texas Star Network for the out-of-network care it provided. The requestor, ROC ASC LLP, in its position summary states, "...medical bill was denied despite the fact that verification of benefits and/or preauthorization of care was requested and obtained from the carrier's utilization review department. We extended treatment in good faith based on the expectation of payment as quoted and pre authorized by the carrier." Although a preauthorization letter dated, September 27, 2013 supports that the Dr. Angelo Paramaswaran, MD received preauthorization for the surgical procedure from the Texas Star Network to treat the injured employee, no documentation was found to support that the ROC ASC LLP received its own, separate approved referral from the treating doctor authorized by the Texas Star Network to treat the injured employee, thereby failing to meet the requirements of Texas Insurance Code Section 1305.103(e).

2. The requestor ROC ASC LLP failed to prove in this case that that the requirements of Texas Insurance Code Section 1305.006(3) were met. Consequently, the services in dispute are not eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307.

## ***DECISION***

Based upon the documentation submitted by the parties, the Division has determined that this dispute is not eligible for resolution pursuant to 28 Texas Administrative Code §133.307.

## **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
October 30, 2014  
Date

## ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim. The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §141.1(d).**